

SECOND REGULAR SESSION

# SENATE BILL NO. 1064

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5302S.011

## AN ACT

To repeal section 137.073, RSMo, and to enact in lieu thereof one new section relating to property taxes.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 137.073, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 137.073, to read as follows:

137.073. 1. As used in this section, the following terms mean:

2 (1) "General reassessment", changes in value, entered in the assessor's  
3 books, of a substantial portion of the parcels of real property within a county  
4 resulting wholly or partly from reappraisal of value or other actions of the  
5 assessor or county equalization body or ordered by the state tax commission or  
6 any court;

7 (2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax  
8 rate for each purpose of taxation of property a taxing authority is authorized to  
9 levy without a vote and any tax rate authorized by election, including bond  
10 interest and sinking fund;

11 (3) "Tax rate ceiling", a tax rate as revised by the taxing authority to  
12 comply with the provisions of this section or when a court has determined the tax  
13 rate; except that, other provisions of law to the contrary notwithstanding, a school  
14 district may levy the operating levy for school purposes required for the current  
15 year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments  
16 required pursuant to article X, section 22 of the Missouri Constitution, if such tax  
17 rate does not exceed the highest tax rate in effect subsequent to the 1980 tax  
18 year. This is the maximum tax rate that may be levied, unless a higher tax rate  
19 ceiling is approved by voters of the political subdivision as provided in this  
20 section;

21 (4) "Tax revenue", when referring to the previous year, means the actual  
22 receipts from ad valorem levies on all classes of property, including state-assessed  
23 property, in the immediately preceding fiscal year of the political subdivision,  
24 plus an allowance for taxes billed but not collected in the fiscal year and plus an  
25 additional allowance for the revenue which would have been collected from  
26 property which was annexed by such political subdivision but which was not  
27 previously used in determining tax revenue pursuant to this section. The term  
28 "tax revenue" shall not include any receipts from ad valorem levies on any  
29 property of a railroad corporation or a public utility, as these terms are defined  
30 in section 386.020, RSMo, which were assessed by the assessor of a county or city  
31 in the previous year but are assessed by the state tax commission in the current  
32 year. All school districts and those counties levying sales taxes pursuant to  
33 chapter 67, RSMo, shall include in the calculation of tax revenue an amount  
34 equivalent to that by which they reduced property tax levies as a result of sales  
35 tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, or as excess  
36 home dock city or county fees as provided in subsection 4 of section 313.820,  
37 RSMo, in the immediately preceding fiscal year but not including any amount  
38 calculated to adjust for prior years. For purposes of political subdivisions which  
39 were authorized to levy a tax in the prior year but which did not levy such tax or  
40 levied a reduced rate, the term "tax revenue", as used in relation to the revision  
41 of tax levies mandated by law, shall mean the revenues equal to the amount that  
42 would have been available if the voluntary rate reduction had not been made.

43 2. Whenever changes in assessed valuation are entered in the assessor's  
44 books for any personal property, in the aggregate, or for any subclass of real  
45 property as such subclasses are established in section 4(b) of article X of the  
46 Missouri Constitution and defined in section 137.016, the county clerk in all  
47 counties and the assessor of St. Louis City shall notify each political subdivision  
48 wholly or partially within the county or St. Louis City of the change in valuation  
49 of each subclass of real property, individually, and personal property, in the  
50 aggregate, exclusive of new construction and improvements. All political  
51 subdivisions shall immediately revise the applicable rates of levy for each purpose  
52 for each subclass of real property, individually, and personal property, in the  
53 aggregate, for which taxes are levied to the extent necessary to produce from all  
54 taxable property, exclusive of new construction and improvements, substantially  
55 the same amount of tax revenue as was produced in the previous year for each  
56 subclass of real property, individually, and personal property, in the aggregate,

57 except that the rate may not exceed the most recent voter-approved rate. Such  
58 tax revenue shall not include any receipts from ad valorem levies on any real  
59 property which was assessed by the assessor of a county or city in such previous  
60 year but is assessed by the assessor of a county or city in the current year in a  
61 different subclass of real property. Where the taxing authority is a school district  
62 for the purposes of revising the applicable rates of levy for each subclass of real  
63 property, the tax revenues from state-assessed railroad and utility property shall  
64 be apportioned and attributed to each subclass of real property based on the  
65 percentage of the total assessed valuation of the county that each subclass of real  
66 property represents in the current taxable year. As provided in section 22 of  
67 article X of the constitution, a political subdivision may also revise each levy to  
68 allow for inflationary assessment growth occurring within the political  
69 subdivision. The inflationary growth factor for any such subclass of real property  
70 or personal property shall be limited to the actual assessment growth in such  
71 subclass or class, exclusive of new construction and improvements, and exclusive  
72 of the assessed value on any real property which was assessed by the assessor of  
73 a county or city in the current year in a different subclass of real property, but  
74 not to exceed the consumer price index or five percent, whichever is  
75 lower. Should the tax revenue of a political subdivision from the various tax  
76 rates determined in this subsection be different than the tax revenue that would  
77 have been determined from a single tax rate as calculated pursuant to the method  
78 of calculation in this subsection prior to January 1, 2003, then the political  
79 subdivision shall revise the tax rates of those subclasses of real property,  
80 individually, and/or personal property, in the aggregate, in which there is a tax  
81 rate reduction, pursuant to the provisions of this subsection. Such revision shall  
82 yield an amount equal to such difference and shall be apportioned among such  
83 subclasses of real property, individually, and/or personal property, in the  
84 aggregate, based on the relative assessed valuation of the class or subclasses of  
85 property experiencing a tax rate reduction. Such revision in the tax rates of each  
86 class or subclass shall be made by computing the percentage of current year  
87 adjusted assessed valuation of each class or subclass with a tax rate reduction to  
88 the total current year adjusted assessed valuation of the class or subclasses with  
89 a tax rate reduction, multiplying the resulting percentages by the revenue  
90 difference between the single rate calculation and the calculations pursuant to  
91 this subsection and dividing by the respective adjusted current year assessed  
92 valuation of each class or subclass to determine the adjustment to the rate to be

93 levied upon each class or subclass of property. The adjustment computed herein  
94 shall be multiplied by one hundred, rounded to four decimals in the manner  
95 provided in this subsection, and added to the initial rate computed for each class  
96 or subclass of property. Notwithstanding any provision of this subsection to the  
97 contrary, no revision to the rate of levy for personal property shall cause such  
98 levy to increase over the levy for personal property from the prior year.

99           3. (1) Where the taxing authority is a school district, it shall be required  
100 to revise the rates of levy to the extent necessary to produce from all taxable  
101 property, including state-assessed railroad and utility property, which shall be  
102 separately estimated in addition to other data required in complying with section  
103 164.011, RSMo, substantially the amount of tax revenue permitted in this section.  
104 In the year following tax rate reduction, the tax rate ceiling may be adjusted to  
105 offset such district's reduction in the apportionment of state school moneys due  
106 to its reduced tax rate. However, in the event any school district, in calculating  
107 a tax rate ceiling pursuant to this section, requiring the estimating of effects of  
108 state-assessed railroad and utility valuation or loss of state aid, discovers that the  
109 estimates used result in receipt of excess revenues, which would have required  
110 a lower rate if the actual information had been known, the school district shall  
111 reduce the tax rate ceiling in the following year to compensate for the excess  
112 receipts, and the recalculated rate shall become the tax rate ceiling for purposes  
113 of this section.

114           (2) For any political subdivision which experiences a reduction in the  
115 amount of assessed valuation relating to a prior year, due to decisions of the state  
116 tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due  
117 to clerical errors or corrections in the calculation or recordation of any assessed  
118 valuation:

119           (a) Such political subdivision may revise the tax rate ceiling for each  
120 purpose it levies taxes to compensate for the reduction in assessed value  
121 occurring after the political subdivision calculated the tax rate ceiling for the  
122 particular subclass of real property or for personal property, in the aggregate, in  
123 a prior year. Such revision by the political subdivision shall be made at the time  
124 of the next calculation of the tax rate for the particular subclass of real property  
125 or for personal property, in the aggregate, after the reduction in assessed  
126 valuation has been determined and shall be calculated in a manner that results  
127 in the revised tax rate ceiling being the same as it would have been had the  
128 corrected or finalized assessment been available at the time of the prior

129 calculation;

130 (b) In addition, for up to three years following the determination of the  
131 reduction in assessed valuation as a result of circumstances defined in this  
132 subdivision, such political subdivision may levy a tax rate for each purpose it  
133 levies taxes above the revised tax rate ceiling provided in paragraph (a) of this  
134 subdivision to recoup any revenues it was entitled to receive had the corrected or  
135 finalized assessment been available at the time of the prior calculation.

136 4. (1) In order to implement the provisions of this section and section 22  
137 of article X of the Constitution of Missouri, the term "improvements" shall apply  
138 to both real and personal property. In order to determine the value of new  
139 construction and improvements, each county assessor shall maintain a record of  
140 real property valuations in such a manner as to identify each year the increase  
141 in valuation for each political subdivision in the county as a result of new  
142 construction and improvements. The value of new construction and  
143 improvements shall include the additional assessed value of all improvements or  
144 additions to real property which were begun after and were not part of the prior  
145 year's assessment, except that the additional assessed value of all improvements  
146 or additions to real property which had been totally or partially exempt from ad  
147 valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to  
148 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new  
149 construction and improvements when the property becomes totally or partially  
150 subject to assessment and payment of all ad valorem taxes. The aggregate  
151 increase in valuation of personal property for the current year over that of the  
152 previous year is the equivalent of the new construction and improvements factor  
153 for personal property. Notwithstanding any opt-out implemented pursuant to  
154 subsection 15 of section 137.115, the assessor shall certify the amount of new  
155 construction and improvements and the amount of assessed value on any real  
156 property which was assessed by the assessor of a county or city in such previous  
157 year but is assessed by the assessor of a county or city in the current year in a  
158 different subclass of real property separately for each of the three subclasses of  
159 real property for each political subdivision to the county clerk in order that  
160 political subdivisions shall have this information for the purpose of calculating  
161 tax rates pursuant to this section and section 22, article X, Constitution of  
162 Missouri. In addition, the state tax commission shall certify each year to each  
163 county clerk the increase in the general price level as measured by the Consumer  
164 Price Index for All Urban Consumers for the United States, or its successor

165 publications, as defined and officially reported by the United States Department  
166 of Labor, or its successor agency. The state tax commission shall certify the  
167 increase in such index on the latest twelve-month basis available on February  
168 first of each year over the immediately preceding prior twelve-month period in  
169 order that political subdivisions shall have this information available in setting  
170 their tax rates according to law and section 22 of article X of the Constitution of  
171 Missouri. For purposes of implementing the provisions of this section and section  
172 22 of article X of the Missouri Constitution, the term "property" means all taxable  
173 property, including state-assessed property.

174 (2) Each political subdivision required to revise rates of levy pursuant to  
175 this section or section 22 of article X of the Constitution of Missouri shall  
176 calculate each tax rate it is authorized to levy and, in establishing each tax rate,  
177 shall consider each provision for tax rate revision provided in this section and  
178 section 22 of article X of the Constitution of Missouri, separately and without  
179 regard to annual tax rate reductions provided in section 67.505, RSMo, and  
180 section 164.013, RSMo. Each political subdivision shall set each tax rate it is  
181 authorized to levy using the calculation that produces the lowest tax rate ceiling.  
182 It is further the intent of the general assembly, pursuant to the authority of  
183 section 10(c) of article X of the Constitution of Missouri, that the provisions of  
184 such section be applicable to tax rate revisions mandated pursuant to section 22  
185 of article X of the Constitution of Missouri as to reestablishing tax rates as  
186 revised in subsequent years, enforcement provisions, and other provisions not in  
187 conflict with section 22 of article X of the Constitution of Missouri. Annual tax  
188 rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo,  
189 shall be applied to the tax rate as established pursuant to this section and section  
190 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

191 5. (1) In all political subdivisions, the tax rate ceiling established  
192 pursuant to this section shall not be increased unless approved by a vote of the  
193 people. Approval of the higher tax rate shall be by at least a majority of votes  
194 cast. When a proposed higher tax rate requires approval by more than a simple  
195 majority pursuant to any provision of law or the constitution, the tax rate  
196 increase must receive approval by at least the majority required.

197 (2) When voters approve an increase in the tax rate, the amount of the  
198 increase shall be added to the tax rate ceiling as calculated pursuant to this  
199 section to the extent the total rate does not exceed any maximum rate prescribed  
200 by law. If a ballot question presents a stated tax rate for approval rather than

201 describing the amount of increase in the question, the stated tax rate approved  
202 shall be adjusted as provided in this section and, so adjusted, shall be the current  
203 tax rate ceiling. The increased tax rate ceiling as approved shall be adjusted  
204 such that when applied to the current total assessed valuation of the political  
205 subdivision, excluding new construction and improvements since the date of the  
206 election approving such increase, the revenue derived from the adjusted tax rate  
207 ceiling is equal to the sum of: the amount of revenue which would have been  
208 derived by applying the voter-approved increased tax rate ceiling to total assessed  
209 valuation of the political subdivision, as most recently certified by the city or  
210 county clerk on or before the date of the election in which such increase is  
211 approved, increased by the percentage increase in the consumer price index, as  
212 provided by law. Such adjusted tax rate ceiling may be applied to the total  
213 assessed valuation of the political subdivision at the setting of the next tax rate.  
214 If a ballot question presents a phased-in tax rate increase, upon voter approval,  
215 each tax rate increase shall be adjusted in the manner prescribed in this section  
216 to yield the sum of: the amount of revenue that would be derived by applying  
217 such voter-approved increased rate to the total assessed valuation, as most  
218 recently certified by the city or county clerk on or before the date of the election  
219 in which such increase was approved, increased by the percentage increase in the  
220 consumer price index, as provided by law, from the date of the election to the time  
221 of such increase and, so adjusted, shall be the current tax rate ceiling. **For**  
222 **political subdivisions that levy separate tax rates on each subclass of**  
223 **real property and personal property in the aggregate, if voters approve**  
224 **a ballot that presents separate stated tax rates to be applied to the**  
225 **different subclasses of real property and personal property in the**  
226 **aggregate, or increases the separate rates that may be levied on the**  
227 **different subclasses of real property and personal property in the**  
228 **aggregate by different amounts, then the tax rate that shall be used for**  
229 **the single rate calculation pursuant to subsection 2 of this section shall**  
230 **be a blended rate, which shall be calculated in the manner described**  
231 **under subdivision (1) of subsection 6 of this section.**

232 (3) The governing body of any political subdivision may levy a tax rate  
233 lower than its tax rate ceiling and may, in a nonreassessment year, increase that  
234 lowered tax rate to a level not exceeding the tax rate ceiling without voter  
235 approval in the manner provided under subdivision (4) of this  
236 subsection. Nothing in this section shall be construed as prohibiting a political

237 subdivision from voluntarily levying a tax rate lower than that which is required  
238 under the provisions of this section or from seeking voter approval of a reduction  
239 to such political subdivision's tax rate ceiling.

240 (4) In a year of general reassessment, a governing body whose tax rate is  
241 lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions  
242 of subsection 4 of this section as if its tax rate was at the tax rate ceiling. In a  
243 year following general reassessment, if such governing body intends to increase  
244 its tax rate, the governing body shall conduct a public hearing, and in a public  
245 meeting it shall adopt an ordinance, resolution, or policy statement justifying its  
246 action prior to setting and certifying its tax rate. The provisions of this  
247 subdivision shall not apply to any political subdivision which levies a tax rate  
248 lower than its tax rate ceiling solely due to a reduction required by law resulting  
249 from sales tax collections. The provisions of this subdivision shall not apply to  
250 any political subdivision which has received voter approval for an increase to its  
251 tax rate ceiling subsequent to setting its most recent tax rate.

252 6. (1) For the purposes of calculating state aid for public schools pursuant  
253 to section 163.031, RSMo, each taxing authority which is a school district shall  
254 determine its proposed tax rate as a blended rate of the classes or subclasses of  
255 property. Such blended rate shall be calculated by first determining the total tax  
256 revenue of the property within the jurisdiction of the taxing authority, which  
257 amount shall be equal to the sum of the products of multiplying the assessed  
258 valuation of each class and subclass of property by the corresponding tax rate for  
259 such class or subclass, then dividing the total tax revenue by the total assessed  
260 valuation of the same jurisdiction, and then multiplying the resulting quotient  
261 by a factor of one hundred. Where the taxing authority is a school district, such  
262 blended rate shall also be used by such school district for calculating revenue  
263 from state-assessed railroad and utility property as defined in chapter 151, RSMo,  
264 and for apportioning the tax rate by purpose.

265 (2) Each taxing authority proposing to levy a tax rate in any year shall  
266 notify the clerk of the county commission in the county or counties where the tax  
267 rate applies of its tax rate ceiling and its proposed tax rate. Each taxing  
268 authority shall express its proposed tax rate in a fraction equal to the nearest  
269 one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then  
270 one/one-hundredth of a cent. If a taxing authority shall round to  
271 one/one-hundredth of a cent, it shall round up a fraction greater than or equal to  
272 five/one-thousandth of one cent to the next higher one/one-hundredth of a cent;

273 if a taxing authority shall round to one-tenth of a cent, it shall round up a  
274 fraction greater than or equal to five/one-hundredths of a cent to the next higher  
275 one-tenth of a cent. Any taxing authority levying a property tax rate shall  
276 provide data, in such form as shall be prescribed by the state auditor by rule,  
277 substantiating such tax rate complies with Missouri law. All forms for the  
278 calculation of rates pursuant to this section shall be promulgated as a rule and  
279 shall not be incorporated by reference. The state auditor shall promulgate rules  
280 for any and all forms for the calculation of rates pursuant to this section which  
281 do not currently exist in rule form or that have been incorporated by reference.  
282 In addition, each taxing authority proposing to levy a tax rate for debt service  
283 shall provide data, in such form as shall be prescribed by the state auditor by  
284 rule, substantiating the tax rate for debt service complies with Missouri law. A  
285 tax rate proposed for annual debt service requirements will be prima facie valid  
286 if, after making the payment for which the tax was levied, bonds remain  
287 outstanding and the debt fund reserves do not exceed the following year's  
288 payments. The county clerk shall keep on file and available for public inspection  
289 all such information for a period of three years. The clerk shall, within three  
290 days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling  
291 and proposed tax rate and any substantiating data to the state auditor. The state  
292 auditor shall, within fifteen days of the date of receipt, examine such information  
293 and return to the county clerk his or her findings as to compliance of the tax rate  
294 ceiling with this section and as to compliance of any proposed tax rate for debt  
295 service with Missouri law. If the state auditor believes that a taxing authority's  
296 proposed tax rate does not comply with Missouri law, then the state auditor's  
297 findings shall include a recalculated tax rate, and the state auditor may request  
298 a taxing authority to submit documentation supporting such taxing authority's  
299 proposed tax rate. The county clerk shall immediately forward a copy of the  
300 auditor's findings to the taxing authority and shall file a copy of the findings with  
301 the information received from the taxing authority. The taxing authority shall  
302 have fifteen days from the date of receipt from the county clerk of the state  
303 auditor's findings and any request for supporting documentation to accept or  
304 reject in writing the rate change certified by the state auditor and to submit all  
305 requested information to the state auditor. A copy of the taxing authority's  
306 acceptance or rejection and any information submitted to the state auditor shall  
307 also be mailed to the county clerk. If a taxing authority rejects a rate change  
308 certified by the state auditor and the state auditor does not receive supporting

309 information which justifies the taxing authority's original or any subsequent  
310 proposed tax rate, then the state auditor shall refer the perceived violations of  
311 such taxing authority to the attorney general's office and the attorney general is  
312 authorized to obtain injunctive relief to prevent the taxing authority from levying  
313 a violative tax rate.

314           7. No tax rate shall be extended on the tax rolls by the county clerk unless  
315 the political subdivision has complied with the foregoing provisions of this  
316 section.

317           8. Whenever a taxpayer has cause to believe that a taxing authority has  
318 not complied with the provisions of this section, the taxpayer may make a formal  
319 complaint with the prosecuting attorney of the county. Where the prosecuting  
320 attorney fails to bring an action within ten days of the filing of the complaint, the  
321 taxpayer may bring a civil action pursuant to this section and institute an action  
322 as representative of a class of all taxpayers within a taxing authority if the class  
323 is so numerous that joinder of all members is impracticable, if there are questions  
324 of law or fact common to the class, if the claims or defenses of the representative  
325 parties are typical of the claims or defenses of the class, and if the representative  
326 parties will fairly and adequately protect the interests of the class. In any class  
327 action maintained pursuant to this section, the court may direct to the members  
328 of the class a notice to be published at least once each week for four consecutive  
329 weeks in a newspaper of general circulation published in the county where the  
330 civil action is commenced and in other counties within the jurisdiction of a taxing  
331 authority. The notice shall advise each member that the court will exclude him  
332 or her from the class if he or she so requests by a specified date, that the  
333 judgment, whether favorable or not, will include all members who do not request  
334 exclusion, and that any member who does not request exclusion may, if he or she  
335 desires, enter an appearance. In any class action brought pursuant to this  
336 section, the court, in addition to the relief requested, shall assess against the  
337 taxing authority found to be in violation of this section the reasonable costs of  
338 bringing the action, including reasonable attorney's fees, provided no attorney's  
339 fees shall be awarded any attorney or association of attorneys who receive public  
340 funds from any source for their services. Any action brought pursuant to this  
341 section shall be set for hearing as soon as practicable after the cause is at issue.

342           9. If in any action, including a class action, the court issues an order  
343 requiring a taxing authority to revise the tax rates as provided in this section or  
344 enjoins a taxing authority from the collection of a tax because of its failure to

345 revise the rate of levy as provided in this section, any taxpayer paying his or her  
346 taxes when an improper rate is applied has erroneously paid his or her taxes in  
347 part, whether or not the taxes are paid under protest as provided in section  
348 139.031, RSMo, or otherwise contested. The part of the taxes paid erroneously  
349 is the difference in the amount produced by the original levy and the amount  
350 produced by the revised levy. The township or county collector of taxes or the  
351 collector of taxes in any city shall refund the amount of the tax erroneously  
352 paid. The taxing authority refusing to revise the rate of levy as provided in this  
353 section shall make available to the collector all funds necessary to make refunds  
354 pursuant to this subsection. No taxpayer shall receive any interest on any money  
355 erroneously paid by him or her pursuant to this subsection. Effective in the 1994  
356 tax year, nothing in this section shall be construed to require a taxing authority  
357 to refund any tax erroneously paid prior to or during the third tax year preceding  
358 the current tax year.

359         10. Any rule or portion of a rule, as that term is defined in section  
360 536.010, RSMo, that is created under the authority delegated in this section shall  
361 become effective only if it complies with and is subject to all of the provisions of  
362 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and  
363 chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
364 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective  
365 date, or to disapprove and annul a rule are subsequently held unconstitutional,  
366 then the grant of rulemaking authority and any rule proposed or adopted after  
367 August 28, 2004, shall be invalid and void.

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